IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.51 OF 2006 AND 52 OF 2006
WITH
CRIMINAL WRIT PETITION NO.868 OF 2005

V.V.Shetye. ..Petitioner.

Vs.

The State of Maharashtra. ..Respondent.

Mr.V.V.Shetye for the Petitioner.
Mrs. M.H.Mhatre, APP. for the State.

CORAM : R.S. MOHITE,J.
DATED : 27/2/2006.

P.C.

1. This is an application by the applicant for restoration of Criminal Writ Petition No.868/2005 to the file. It appears that by order of this court dated 7.6.2005 writ petition was dismissed for non prosecution for the reasons which are mentioned in the said order. One of the reason for dismissing the writ petition was that the petitioner was absent though he had earlier applied and preponed the date of hearing. Be that as it may, since the petitioner is an Advocate and the matter touches upon his conduct, in the interest of justice, application is allowed and the writ petition is restored to the file.

CRIMINAL APPLICATION NO.52 OF 2006

1. This is an application for condonation of 207 days delay in filing the application for restoration of the Criminal Writ Petition.

2. Heard both sides.

3. For the reasons which are mentioned in the application and which are accepted, in the interest of justice specially as the petitioner is an advocate and the matter touches upon his conduct, delay is condoned in the filing of the application for restoration of the writ petition. Application is disposed off.

WRIT PETITION NO. 868/2005

1. By this writ petition, the petitioner impugns a judgment and order dated 1.9.2004 passed in final show cause notice dated 19.8.2004 in MCOC Special Case No.4/2002. By the impugned judgment and order

while acquitting the accused, after holding a preliminary enquiry the Special Judge came to the conclusion that it was essential to hold a detailed enquiry in the matter of giving false details in the surety form filed in respect of one of the accused who managed to secure bail and is since then, absconding. In the preliminary enquiry one of the sureties by name Vijay Waman Gaikwad who had given Vakilpatra to the present petitioner stated on oath that at the behest of the present petitioner he had falsely stated in the surety application that he knew the accused for the period of seven years. This is a case where not only one of the accused has absconded but the second surety has also absconded and his whereabouts are not known.

2. In pursuance of the order dated 1.9.2004 complaint was filed under Section 195 and 340 of the Code of the Criminal Procedure for offences punishable under Section-193, 194, 197, 198, 199, 200 and 209 read with 120B of the Indian Penal Code. I am informed by the Advocate that the process has not been issued so far by the Magistrate who is hearing the said complaint. If process has not been issued then in my view this is not a fit stage to entertain this petition. Needless to say that the

Magistrate who is hearing the complaint will apply his own mind according to law and decide the question as to whether process is required to be issued and if so against whom. While doing so, he will act without being influenced by the impugned order of the Special Judge and will be guided solely on the merits of the case. Subject to these directions, I am not inclined to entertain this petition and the same is dismissed.

(R. S. MOHITE, J.)